

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition for Rulemaking)
to Determine the Terms)
and Conditions Under Which)
Tier 1 LECs Should be)
Permitted to Provide Inter-)
LATA Telecommunications)
Services)

RM-8303

REPLY COMMENTS OF
U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("USWC"), through its undersigned counsel, hereby replies to the Comments of LDDS Communications, Inc. ("LDDS"), in the above-captioned docket.

USWC is not one of the petitioners in this docket. USWC did not file comments on the instant petition. In other words, USWC has not heretofore participated, and at the current time does not contemplate participating, in the merits of this docket.¹

Nonetheless, USWC feels compelled to respond to one set of comments -- those by LDDS -- because of the unfounded and gratuitous nature of allegations made therein about USWC. LDDS annexed to its otherwise undistinguished comments a 30-page

¹This lack of participation should not be understood as either overt or covert opposition to what the petition is trying to achieve. At this time, USWC is simply neutral here.

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attachment ("LDDS Attachment") enumerating a parade of horrible activities in which the Regional Bell Operating Companies ("RBOC") have purportedly engaged. Approximately five pages of this attachment level charges against USWC.

USWC submits that these charges are unfounded for a couple of reasons. First, the source cited in support of virtually every charge is a trade publication or newspaper -- not by and large consisting of allegations purportedly made before a regulatory agency or court -- and LDDS conveniently neglects to describe the outcome of the proceedings in which the allegations were supposedly made. In most cases, no Federal Communications Commission ("Commission") or court finding was ever made that the allegations had any basis in fact.² Second, LDDS cites almost exclusively to trade publications and newspapers as the sole support for its allegations; this kind of hearsay is of questionable accuracy³ and should not be countenanced

²For example, LDDS raises as an instance of "anti-competitive marketing" a 1990 request by Teleconnect*USA to the Department of Justice to investigate alleged U S WEST wrongdoing in the directory publishing market (see LDDS Attachment at 28). LDDS neglects to mention, however, that the Department of Justice found this allegation to be so without merit that it declined even to launch an investigation. Another example of this is the citation of a supposed Iowa Consumer Advocate complaint against USWC about directory publishing (see LDDS Attachment at 29) that was in fact an earnings investigation which was ultimately settled, with no finding of any improper conduct in the directory arena.

³For example, the reference to a 1992 refund in Oregon of \$56 million (see LDDS Attachment at 26), taken from an issue of BOC Week, is simply not true. While USWC did stipulate to some rate reductions in the context of negotiating an alternative form of regulation package with the Oregon PUC, the \$56 million figure bears no relationship to anything negotiated.

as sufficient basis for leveling serious charges of impropriety as LDDS does here.⁴

The LDDS charges are gratuitous, because USWC is not a petitioner here. To interject scurrilous,⁵ unsupported, and unsupportable charges as statements of "fact" about a non-party to a docket is simply irresponsible.

USWC hopes and believes that the Commission will not rely upon information as inherently unreliable as this LDDS Attachment as part of its basis for any decision in this proceeding.⁶

⁴One set of allegations, relating to a laundry list of "anti-competitive practices" in the voice messaging area (see LDDS Attachment at 29) gleaned from an Association of Telemessaging Services International, Inc. ("ATSI"), publication, has previously been trotted out before the FCC in the Computer III remand proceeding. See In the Matter of Computer III Remand Proceedings: Bell Operating Company Safeguards; and Tier 1 Local Exchange Company Safeguards (Docket No. 90-623). U S WEST exhaustively refuted these groundless charges and noted that they "ought to merit sanctions against the filing part[y]" (which was ATSI) (Reply Comments of U S WEST Communications, Inc., CC Docket No. 90-623, filed Apr. 8, 1991, at 95 n.259).

⁵"Scurrilous" is not too strong a word. For example, LDDS states that USWC "has been found guilty of improper marketing plans in seven states" (LDDS Attachment at 25). The word "found" connotes a court ruling; the words "found guilty" imply a court finding of criminal malfeasance. In fact, LDDS is referring to a civil case which was settled by USWC with no "finding" by any court of "guilt" or any wrongdoing. As a further example, LDDS slaps the label "accounting improprieties" on the suspension and investigation of a USWC tariff filing. The suspended tariff reflected a treatment of the accounting change for other post-employment benefits ("OPEB") in a manner with which the Bureau disagreed. Such a disagreement on accounting rules, in a new and uncharted area like OPEB, in no way constitutes a finding of "impropriety" as asserted by LDDS.

⁶USWC will not burden this record with a detailed refutation of each and every allegation set forth in the LDDS Attachment. USWC does note that, by discussing a few of these misleading charges, as it has done here, it is in no way acknowledging the accuracy of any allegation made by LDDS that is not so specifically addressed.


CONCLUSION

For the reasons stated herein, USWC respectfully requests that the Commission give minimal weight at best to the allegations made in the LDDS Attachment.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:



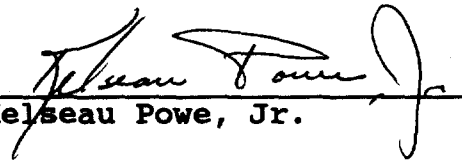
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September 17, 1993

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 17th day of September, 1993, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

***Via Hand-Delivery**

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